

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 403

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO LIQUOR CONTROL; CREATING A SPECIALTY LICENSE FOR
GIFT SHOPS TO PERMIT SALES OF NEW MEXICO WINES AND BEERS IN
UNBROKEN PACKAGES TO INCREASE TOURIST TRADE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 60, Article 6A NMSA
1978 is enacted to read:

"[NEW MATERIAL] GIFT SHOP LICENSE.--

A. A local option district may approve issuance of
gift shop licenses in that local option district by holding an
election on the question "Shall gift shops be permitted to sell
New Mexico wines and beers in unopened containers for
consumption off premises in the _____ local option
district?", pursuant to the procedures set out in Section
60-5A-1 NMSA 1978. The election also may be initiated by a

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1 resolution adopted by the governing body of the local option
2 district without a petition from registered qualified electors
3 having been submitted.

4 B. If the majority of electors voting on the
5 question vote to allow gift shop sales of New Mexico wines and
6 beers, the governing body of the local option district shall
7 inform the director that gift shop licenses may be issued in
8 that local option district.

9 C. A gift shop licensee shall be subject to the
10 following requirements and restrictions:

11 (1) a person granted a gift shop license:

12 (a) shall not serve food or beverages,
13 except as permitted by this section;

14 (b) shall not own, lease or manage
15 another license issued pursuant to the Liquor Control Act; and

16 (c) shall not sell gasoline from the
17 licensed premises;

18 (2) the premises identified in an application
19 for a gift shop license shall not be the premises identified
20 for any other license issued pursuant to the Liquor Control
21 Act;

22 (3) a gift shop licensee shall submit reports
23 annually as required by the director, including:

24 (a) gross receipts from the sale of beer
25 and wine, including separate reporting of sales of beer and

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1 wine shipped from the gift shop licensee's premises by common
2 carrier; and

3 (b) the total annual gross receipts;

4 (4) gift shop licensees shall only sell beer
5 and wine in unbroken packages produced in New Mexico by a
6 licensed winegrower or small brewer that is for consumption off
7 the licensed premises;

8 (5) a gift shop license shall not be
9 transferable from person to person or from one location to
10 another and shall have a term of one year, expiring each June
11 30 following issuance; and

12 (6) no more than the equivalent of four six
13 packs of twelve-ounce containers of beer or twelve seven
14 hundred fifty milliliter bottles of wine may be sold to any one
15 customer in one twenty-four-hour period.

16 D. The total annual gross receipts from sales from
17 the licensed premises and the total gross receipts from the
18 sale of wine and beer shall be reported in the annual report.
19 The sales of wine and beer shall not exceed twenty percent of
20 the total annual gross receipts of the gift shop licensee,
21 except that gross receipts from sales of wine and beer shipped
22 from the gift shop licensee's premises by common carrier shall
23 not be included in the calculation of the twenty percent wine
24 and beer sales from the licensed premises.

25 E. If a gift shop licensee that reports sales of

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1 wine and beer in its annual report of greater than twenty
2 percent of the gift shop licensee's gross receipts, the license
3 to sell beer and wine, issued pursuant to the Liquor Control
4 Act, shall be revoked and the gift shop licensee shall not
5 apply for a new gift shop license for twenty-four months.

6 F. The wine and beer sold on the licensed premises
7 shall be held at room temperature and not chilled.

8 G. The provisions of Section 60-6A-18 NMSA 1978 do
9 not apply to a gift shop license and shall not be considered by
10 the director in approving the issuance of a gift shop license.

11 H. In addition to the gross receipts tax on the
12 sale of New Mexico wine and beer, a gift shop licensee shall
13 also pay liquor excise tax as required by law.

14 I. Employees of the gift shop licensee shall be
15 twenty-one years of age or older to sell wine and beer on the
16 premises of a gift shop licensee.

17 J. Beer and wine shall not be available for
18 consumption on the premises of a gift shop licensee.

19 K. The fee to apply for a gift shop license is two
20 hundred dollars (\$200)."

21 Section 2. Section 60-6A-15 NMSA 1978 (being Laws 1981,
22 Chapter 39, Section 32, as amended) is amended to read:

23 "60-6A-15. LICENSE FEES.--Every application for the
24 issuance or renewal of the following licenses shall be
25 accompanied by a license fee in the following specified

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1 amounts:

2 A. manufacturer's license as a distiller, except a
3 brandy manufacturer, three thousand dollars (\$3,000);

4 B. manufacturer's license as a brewer, three
5 thousand dollars (\$3,000);

6 C. manufacturer's license as a rectifier, one
7 thousand fifty dollars (\$1,050);

8 D. wholesaler's license to sell all alcoholic
9 beverages for resale only, two thousand five hundred dollars
10 (\$2,500);

11 E. wholesaler's license to sell spirituous liquors
12 and wine for resale only, one thousand seven hundred fifty
13 dollars (\$1,750);

14 F. wholesaler's license to sell spirituous liquors
15 for resale only, one thousand five hundred dollars (\$1,500);

16 G. wholesaler's license to sell beer and wine for
17 resale only, one thousand five hundred dollars (\$1,500);

18 H. wholesaler's license to sell beer for resale
19 only, one thousand dollars (\$1,000);

20 I. wholesaler's license to sell wine for resale
21 only, seven hundred fifty dollars (\$750);

22 J. retailer's license, one thousand three hundred
23 dollars (\$1,300);

24 K. dispenser's license, one thousand three hundred
25 dollars (\$1,300);

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1 L. canopy license, one thousand three hundred
2 dollars (\$1,300);

3 M. restaurant license, one thousand fifty dollars
4 (\$1,050);

5 N. club license, for clubs with more than two
6 hundred fifty members, one thousand two hundred fifty dollars
7 (\$1,250), and for clubs with two hundred fifty members or
8 fewer, two hundred fifty dollars (\$250);

9 O. wine bottler's license to sell to wholesalers
10 only, five hundred dollars (\$500);

11 P. public service license, one thousand two hundred
12 fifty dollars (\$1,250);

13 Q. nonresident licenses, for a total billing to New
14 Mexico wholesalers:

15 (1) in excess of:

16 \$3,000,000 annually \$10,500;

17 1,000,000 annually 5,250;

18 500,000 annually 3,750;

19 200,000 annually 2,700;

20 100,000 annually 1,800;

21 and

22 50,000 annually 900;

23 and

24 (2) of \$50,000 or less \$300;

25 R. wine wholesaler's license, for persons with sales

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1 of five thousand gallons of wine per year or less, twenty-five
 2 dollars (\$25.00), and for persons with sales in excess of five
 3 thousand gallons of wine per year, one hundred dollars (\$100);
 4 [~~and~~]

5 S. beer bottler's license, two hundred dollars
 6 (\$200); and

7 T. gift shop license, one thousand three hundred
 8 dollars (\$1,300)."

9 Section 3. A new section of Chapter 60, Article 6B NMSA
 10 1978 is enacted to read:

11 "[NEW MATERIAL] SHIPMENT OF DOMESTIC WINE AND BEER BY
 12 CERTAIN LICENSEES.--A holder of a current small brewer's,
 13 retailer's or gift shop license is authorized to ship by common
 14 carrier from its premises beer produced and bottled in New
 15 Mexico by the holder of a small brewer's license and wine
 16 produced and bottled in New Mexico by the holder of a
 17 winegrower's license to those jurisdictions in the United
 18 States that permit the receipt of those shipments by retail
 19 purchasers. A gift shop licensee shall not ship more than the
 20 equivalent of four six-packs of twelve-ounce containers of beer
 21 or twelve seven hundred fifty milliliter bottles of wine to any
 22 address or to any single purchaser in any one twenty-four-hour
 23 period."

24 Section 4. EFFECTIVE DATE.--The effective date of the
 25 provisions of this act is July 1, 2009.

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